



STATE OF WASHINGTON  
SENTENCING GUIDELINES COMMISSION

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December 12, 2008

**MEMORANDUM**

**TO:** SGC

**FROM:** Jean Soliz-Conklin

**RE:** Draft for Review

**ACTION REQUESTED:** Please review the policy discussion that follows and take action if appropriate.

**Introduction**

The 2008 legislature passed HB 2719 with numerous clarifications to the community custody provisions of the Sentencing Reform Act. The bill was proposed by the Sentencing Guidelines Commission (SGC), assisted by the valuable insight, expertise and hard work of Seth Fine, Asst. Chief Criminal Deputy, from the Snohomish County Prosecutor's Office.

In that bill the legislature added the following assignment " *The clarifications in this act are intended to support continued discussions by the sentencing guidelines commission with the courts and the criminal justice community to identify and propose policy changes that will further simplify and improve the sentencing reform act relating to the supervision of offenders. The sentencing guidelines commission shall submit policy change proposals to the legislature on or before December 1, 1008.* "

The SGC and the Superior Court Judges' Association Sentencing and Supervision Workgroup (SCJA) have reviewed the research and discussed this topic for months. The SGC and SCJA are proposing a joint planning process to the 2009 legislature which will authorize and support a planning process to create a new evidence-based model for community custody of adult felons in Washington State. The discussion included a review of the successes of the juvenile justice evidence-based system in Washington.

Since 70% of felony sentences are for less than a year and are served in local jails (instead of prisons), the SGC and the SCJA found that intensive discussions need to occur involving stakeholders from around the state, before key questions can be resolved.

*Exhibit B*

## **OVERARCHING GOAL – Create an Evidence-Based System of Community Custody for Adult Felons Who do Not Go to Prison**

An evidence-based system is intended to better target resources, increase public safety through reduced recidivism and save public funds. An evidence-based system will improve the effectiveness of offender re-entry investments. The SGC and the SCJA also intend to promote truth in sentencing, so the public better understands the actual sentences meted out to felons.

### **QUESTIONS FOR CONSIDERATION**

#### **1. An evidence-based system would contain the following components:**

- A. Identification and establishment of programs which research demonstrates reduce recidivism in a cost-effective manner.
- B. Assessment and Assignment of Offenders
  - Classify offenders with risk and needs assessments
  - Impose sentences based on results of risk and needs assessments
- C. Monitor Performance
  - 1) Offenders' Compliance
    - Monitor compliance with sentence conditions
  - 2) Program Integrity
    - Monitor programs to ensure conformance with program model
    - Evaluate program cost-effectiveness on a continuing basis
- D. Impose Sanctions for Non-compliance
  - Adjudicate allegations of non-compliance
  - Impose sanctions for non-compliance

#### **2. Operational issues**

##### **A. Is the transfer of community custody responsibility appropriate (i.e. for non-prison-bound felons)?**

The SGC and the SCJA have discussed transferring from the department of Corrections (DOC) to county courts the supervision of felony offenders whose sentences are less than a year, except for sex offenders. This idea has not been fully developed, however. Many questions remain, including:

- How would transferring the violations procedures back to local courts work?
- How would employees be affected?
- How would DOC improve its evidence-based community custody practices (with or without the jailed felons)?

##### **B. How does the state protect community custody administrations from unreasonable tort liability?**

C. How does the state provide sufficient financial resources to the community custody system?

D. How does the new evidence-based model ensure ongoing oversight to ensure program integrity?

## **PLANNING PROCESS**

The SGC and the SCJA propose that the legislature authorize a Community Custody Planning Process. The planning process will result in a plan with recommendations to create an evidence-based system of community custody for adult felons who do not go to prison. The plan will include timelines and fiscal projections and answer the "Questions for Consideration" listed above as well as reference appropriate research. The plan is due to the Governor and the Legislature no later than December 1, 2009.

The Community Custody Planning Process will be facilitated by the Sentencing Guidelines Commission and the Superior Court Judges' Association Sentencing and Reform Workgroup, with participation by the Washington State Office of Financial Management (OFM) and all entities represented on the SGC, and a representative from the Washington Federation of State Employees.

The Community Custody Planning Committee shall consult with the Washington State Institute for Public Policy (WSIPP) in developing the evidence-based system of community custody for adult felons. A one-time appropriation is provided for WSIPP's support for this planning process. A one-time appropriation is provided for the SGC's support for this planning process.